

SUPERSEDES

EFFECTIVE DATE

October 12, 2001

October 24, 2003

NEVADA BOARD OF PAROLE COMMISSIONERS

OPERATION OF THE BOARD

REVISED

October 24, 2003

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Nevada Board of Parole Commissioners

Code of Ethics

In recognition and acceptance of the responsibilities inherent in the profession of corrections and as a Parole Board member, I acknowledge these to be my guiding precepts:

- ! I shall conduct my personal life with decorum, neither accepting nor granting favors in connection with my office.**
- ! I shall be professional and respectful to all those involved in the parole hearing process, including the offender, victims and those who support or oppose an offender's release.**
- ! I shall prepare my cases with integrity and accuracy and share all matters of a confidential nature with only those who have a need to know.**
- ! I shall respect the individual needs and characteristics of my fellow Board members and shall value, appreciate and respect the decisions and views of my colleagues.**
- ! I shall cooperate with my co-workers and will continually strive to enhance mutual cooperation with representatives of the criminal justice agencies with whom I interact.**
- ! I recognize my office as a symbol of public trust and shall constantly strive to achieve the objectives and ideals of the Parole Board while dedicating myself to my chosen profession.**

DISCLAIMER

Information contained in this publication may become outdated due to opinions by the attorney general, changes in the law, opinions or rulings by the court, or other changes that may occur after the publication of this document that may not be immediately incorporated into a revised document.

LEGISLATIVE DECLARATION CONCERNING PAROLE:

NRS 213.10705 states:

“The legislature finds and declares that the release or continuation of a person on parole or probation is an act of grace of the state. No person has a right to parole or probation, or to be placed in residential confinement, and it is not intended that the establishment of standards relating thereto create any such right or interest in liberty or property or establish a basis for any cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees.”

MISSION:

In an effort to ensure public safety, the Board of Parole Commissioners (Board) renders fair and just decisions on parole matters based on the law, the impact on victims and the community, and the goal of successfully reintegrating offenders back into society.

VISION:

The Board is committed to the improvement of the quality of the criminal justice system on behalf of all the citizens of Nevada. It seeks this through a deep concern for public safety, consideration of the victims of crime and the rehabilitation of offenders.

The Board strongly believes in the parole process and is committed to the ethical, unbiased and professional performance of its duties, and will continually strive for excellence and consistent fairness.

The members of the Board value each Commissioner and fellow employee and respect the contribution each makes toward the successful completion of our mission. The Board strives for collegiality in its internal operations and full cooperation with external organizations with which it interacts.

The Board recognizes its responsibility, not only to the citizens of Nevada and the victims of crime, but also to the offenders who appear before it. With this in mind, the Board will render objective, just and informed decisions that are free of improper external influences, while being mindful of the needs of the offender and the community.

PAROLE HEARINGS:

1. The Board does not determine who is eligible for parole, nor does it calculate sentence expiration dates. These are functions of the Nevada Department of Corrections (NDOC) which also records statutory good time and other credits earned by prisoners. Inquires regarding credits earned, parole eligibility and expirations of prison and parole terms, shall be directed to the NDOC records office, which is responsible for maintaining accurate timekeeping records.
2. All parole hearings conducted by the Board are open to the public in accordance with NRS 213.130(3). Persons attending parole hearings may do so as observers only, with the exception of victims and direct family members of victims, who are allowed by Nevada Law to speak at these hearings. The Board may ask questions of anyone in attendance.
3. Individual votes of all Commissioners and recommendations of hearing representatives on all decisions shall be recorded on each order of the Board.
4. Parole hearings may be conducted by panels in accordance with NRS 213.133.
5. The results of the Board's deliberations will not be announced until four members are in agreement, and the applicable institutions, facilities and the inmates are notified of the decision. This ratification process will take place as soon as is practical, with notification taking place within 14 days from the end of each month's agendas or as soon as practicable thereafter.
6. Under the provisions of Section 4, NRS 213.130, the Board may deliberate in private following a public hearing held to consider an applicant for parole. The Board often considers information which must, by law, be classified as confidential, including information obtained by parole and probation officers and employees of the Board (NRS 213.1075).
7. Parole is an act of grace by the State of Nevada and the release of a prisoner from confinement after serving a portion of his sentence is discretionary. While on parole the prisoner remains under the supervision of the Nevada Division of Parole and Probation (P&P) until he has completed his sentence or is granted early discharge.
8. In cooperation with NDOC, the Board has adopted a policy of considering paroles four months or more in advance of minimum parole eligibility dates. In the event a prisoner is not seen during the month in which his name appears on an eligibility list, the prisoner will be rescheduled once his name is re-submitted to the Board on an eligibility list prepared by the NDOC. The Board will not add the name of a prisoner onto an agenda unless his name appears elsewhere on that month's published eligibility list. The Executive Secretary or Parole Board Chairman may exempt this requirement if proper public notice can be accomplished.
9. The Board may continue a parole hearing to a later date on an agenda or may conduct a hearing in absentia at the discretion of the panel. Hearings on prisoners who do not appear for their scheduled hearing for any reason (moved to another location, refused to attend, on a work detail etc.) may be conducted in absentia. There is no right afforded to any prisoner for a personal appearance at a parole hearing held by the Board.
10. All prisoners eligible for parole under Nevada Statutes shall be considered for parole.

11. The Board will not act or rule on claims of inaccuracies in pre-sentence investigations. Any claims of inaccuracies in a pre-sentence investigation report should be addressed to P&P who is responsible for the preparation of these reports.

12. Representation of prisoners being considered for parole is not permitted unless the prisoner suffers from mental, physical, or language disabilities that impede communications with the Board or panel. The disability must be clearly documented by the NDOC for the Board to consider allowing representation. The Board may take action in absentia at the discretion of the panel if the presence of an interpreter will not aid in the decision making process.

13. Prisoners who are made immediately eligible for parole by action of the State Pardons Board will not be considered by the Board until the 30 day notification required by law can be effected. This notification may be waived by action of the Pardons Board.

HEARING REPRESENTATIVES:

1. The Board is authorized by law to designate Hearing Representatives to assist in meeting the required schedule of parole considerations.
2. Hearing Representatives are assigned to panels to make recommendations to the Board.

PANEL HEARINGS:

1. Panels may consist of one Commissioner and one hearing representative or two or more Commissioners.
2. Three or more Commissioners will conduct hearings for those prisoners incarcerated for crimes named in NRS 213.133 (6).
3. Parole violation panels will consist of two or more Commissioners.
4. As a consideration of delegating authority to a panel, Nevada Law requires that the recommendation of a panel be subject to ratification by a majority of the Board.
5. Panels will make recommendations to the Board for final action on all parole hearing actions as required by NRS 213.133.

PAROLE DECISIONS:

1. The Board has adopted standards as required by NRS 213.10885, which meet the requirement of providing greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a violent crime. A sample copy of the standards adopted by the Board is available at 2601 E. Sahara Avenue, Las Vegas, NV 89104 or 1445 Hot Springs Road, Suite 108-B, Carson City, NV 89711 or at the Board's web site located at <http://parole.state.nv.us>.
2. The Board complies with NRS 213.1099, which limits the Board's power to release prisoners

on parole.

3. During the consideration of a prisoner by a panel consisting of two members, if the panel members are unable to concur in a recommendation to grant or deny parole, the hearing may be continued in absentia to a later time or date to allow a third Commissioner to participate in the deliberations. If it is not convenient to continue the hearing, the prisoner will be considered for parole by a panel consisting of two different panel members, or a panel consisting of three members. Hearings that are rescheduled shall be done so as to afford proper notification pursuant to NRS 213.1085(5).

4. If a split decision (tied vote during the ratification process) should occur, an order denying parole consideration shall be issued and the prisoner will be scheduled for a parole hearing six months after the split decision is rendered.

5. Paroles, under Nevada Law, may be denied for a maximum period of three years if less than ten years are remaining on the sentence. If ten years or more remain on the sentence, the denial period may be a maximum of five years.

6. A prisoner who has escaped shall not be considered for parole until returned to the custody of the NDOC.

7. Prisoners housed in other states under compact terms will be considered for parole in absentia when eligible. The Board will require a current progress report from the NDOC or the institution where the prisoner is currently incarcerated.

8. As part of the parole decision making process, the Board receives and welcomes evaluations from health care professionals and prison personnel.

9. The Board has requested the NDOC to inform it of infractions of the Code of Penal Discipline by prisoners eligible for parole consideration.

10. Prisoners who commit violations of the Code of Penal Discipline may be subject to an adverse parole decision.

11. The Board may take action to rescind the parole of a prisoner who has received a positive decision from the Board and prior to his release date becomes involved in violations of the Code of Penal Discipline. The Board may schedule a personal hearing to reconsider a previous order (RPO) or take action in absentia. The Board requests that the NDOC inform the Board of serious infractions that occur after a prisoner has been granted parole.

12. The Board may take action to rescind the parole of a prisoner if adverse information absent at the time the panel considered the prisoner for parole is brought to the attention of the Board, and a majority of the Board concurs that the new information is serious enough to warrant a parole rescission.

13. The Board may reconsider any parole action as a continuation of prior deliberations held

to consider a prisoner for parole in accordance with NRS 213.133 (3).

CHAIRMAN'S VETO OF RECOMMENDATION TO DEVIATE FROM GUIDELINES

1. Pursuant to NRS 213.133 (7), if a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division of Parole and Probation, the Chairman must concur in the recommendation.
2. In the event the Chairman does not concur in the recommendation, the case will be referred back to the panel that made the recommendation.

A) Veto of Paroles Granted Under Standards

1. The panel will consider the Chairman's reasons for denying, the length of time needed to be served for the prisoner to reach the minimum guideline recommended months to serve, the impact on applicable victims and any other relevant information regarding the case to assist in determining the parole denial length.
2. In the event a majority of the Board cannot agree on the denial length, the prisoner will be rescheduled for a hearing one year from the date of the current parole eligibility date.

B) Veto of Paroles Denied Over Standards

1. The panel will consider the Chairman's reasons from not wanting to deny parole, or the reasons for a denial period to be less than the panel recommendation to assist them in determining an appropriate period of denial.
2. In the event the Chairman does not concur in the panel recommendation after further review, the prisoner will be rescheduled for a hearing one year from the date of the current parole eligibility date.

PAROLE APPLICATIONS:

1. A prisoner does not need to prepare a formal application for parole. The NDOC will determine when each prisoner is eligible to be considered for parole, notify the Board, and compile and provide to the Board data that will assist it in determining whether parole should be granted.
2. Parole progress reports provided by prison staff shall include, but not be limited to, time served on each case; The applicant's disciplinary history while imprisoned; Program participation; The parole plan if known, including residence and employment opportunities; A summary of pertinent facts of the crime for which the convicted offender is imprisoned; A summary of prior criminal history, and any recommendations of the NDOC staff.

3. Prisoners convicted of capital offenses in which the death penalty, or life without the possibility of parole have been imposed, but whose sentences have been commuted and have served 20 consecutive years in NDOC will be considered by a panel of three or more Commissioners.

INMATE CONDUCT:

1. When granted an expected parole date, the prisoner must continue to comply with the Code of Penal Discipline. Violations of the code may be cause to rescind the previous decision to grant parole.

2. The Board may, at the hearing, set a tentative future date for parole which is contingent on continued programming and the prisoner remaining disciplinary free. (If either of these requirements are not met, a hearing may be scheduled for reconsideration of the decision, or the Board may take action in absentia.)

SPECIAL CONDITIONS:

1. The Board has set the standard conditions of parole which are reflected on the parole agreement issued by P&P. In addition to those conditions, the Board may require other special conditions to assure a successful parole such as house arrest, special programming, use of the polygraph, off limit areas, or any other reasonable conditions.

2. All special conditions imposed on parole to the community shall also apply to earlier granted paroles on sentences that remain on active status.

3. Because parolees are very often requested by law enforcement officials to act as informants and undercover agents, and in such capacities are exposed to the environment and associates which had been detrimental to their welfare in the past, the Board urges that parole officers be instructed to prohibit parolees under their supervision from becoming informants or undercover agents for law enforcement agencies, unless the Chief of P&P directs otherwise.

PAROLE GRANT:

1. Board actions are effective from the minimum parole eligibility date, or at such other future date the Board may set.

2. Prisoners cannot be released on parole prior to attaining minimum parole eligibility.

3. Parole denial periods date from the minimum parole eligibility date, or to other dates as set by the Board.

4. Release under approved parole plan (RUAPP) requires an investigation by P&P of the release plan prior to the grant of parole. If the parole plan is determined to be significantly unacceptable the Board may review the previous order (RPO) at a personal hearing or in absentia.

5. A parole is not considered granted until all release documents and the parole agreement have been signed by the prisoner and release is imminent. The Board encourages final signing immediately prior to release.

6. The Board sets the start time of the parole and the conditions of parole, and the parolee remains subject to the jurisdiction of the Board from the time he is released on parole under the provisions of NRS 213 until the expiration of the maximum term of imprisonment. The Board does not administer paroles. P&P supervises all persons on parole. Parolees that request changes or modifications to the special conditions of parole should do so through their supervising Parole Officer.

PAROLE GRANTS TO SEX OFFENDERS:

1. The Board shall not release on parole a prisoner convicted of an offense listed in NRS 213.1214 (5) unless a panel created pursuant to NRS 213.1214 certifies that the prisoner was under observation while confined in an institution of the NDOC and does not represent a high risk to re-offend based upon a currently accepted standard of assessment.

2. If a parolee serving a sentence for an offense listed in NRS 213.1214 (5) is returned to the custody of the NDOC for any reason, the prisoner may not be released again on parole unless a psych panel re-certifies that the prisoner does not represent a high risk to re-offend based upon a currently accepted standard of assessment.

PAROLE GRANTS TO CONSECUTIVE SENTENCES:

1. A prisoner who has been granted parole to a consecutive sentence and is expiring a subsequent sentence with time remaining on the sentence previously granted parole may not be released from the NDOC until P&P:

- a. Receives a viable parole plan from the prisoner;
- b. Conducts a pre-release investigation, and;
- c. Approves the plan.

2. The failure to provide a viable release plan is grounds for revoking/rescinding the previous parole since it was originally granted solely to a consecutive sentence.

3. If the prisoner's release plans are not approved by P&P, the Board may reconsider the parole of the prisoner in person or in absentia.

4. The NDOC is authorized to re-activate the paroled sentence upon expiration of a subsequent sentence until such time as P&P coordinates the release of the prisoner, or the Board revokes/rescinds the previous parole.

RECONSIDERATION OF UNFAVORABLE DECISION:

1. The Board may grant reconsideration to prisoners who have been denied parole, when there

has been significant change in status since the last Board action.

2. Reconsideration must be approved by a majority of the Board. Consideration of such requests shall be performed as a continuation of deliberations previously conducted pursuant to NRS 213.130(5).

3. The Board is sensitive to the problems of members of the family of those convicted of crime, but must deal primarily with the offender and the offense. Family circumstances, business affairs, hardship, need, and other problems shared almost universally by prisoners, are not usually considered adequate reasons for advancements.

4. Participation in self-help programs offered by the prison is expected of all prisoners in normal course, and such participation is not viewed as sufficient basis for advancement.

PRE-RELEASE RESCISSION:

1. P&P is authorized to place in effect a moratorium on parole release for an offender who has been charged or found guilty of a major violation of the rules of the Code of Penal Discipline.

2. If the violation will result in detaining the offender beyond the release date specified in the parole order, P&P must notify the Board within three working days of being notified that the prisoner has been charged or found guilty of a major violation. Upon notice of the violation and request for action, the Board may:

- a. Take no action and allow the prisoner to be released on parole.
- b. Rescind the parole of the offender.
- c. Delay parole release until the disposition of the disciplinary charges is known at which time the Board will take appropriate action to rescind or reinstate the Board order.
- d. Delay parole release and schedule a personal hearing to determine the appropriate action.

BOARD COMMUNICATIONS:

1. The Parole Board sits as an arm of the sentencing court. Parole Board members derive their authority from their function as a Board and do not have individual power to grant or deny parole. Just as it is never proper for someone to contact a sentencing judge outside the context of a hearing, it is inappropriate for inmate family or supporters to meet with individual Board members in an attempt to persuade specific action. Parole Commissioners will make themselves available to discuss general parole matters with interested parties but not to discuss specific cases or accept input from persons who are not the victims of a specific inmate.

2. Parole Commissioners will make themselves available by appointment to personally accept confidential personal information from victims of crime pursuant to NRS 213.130.

3. All information submitted by a victim to the Board shall remain strictly confidential and may not be disclosed to any person other than the Board, employees of the Board and counsel to the Board when required. The Board and its employees shall not acknowledge the presence or absence of any input by a victim nor shall it discuss any input from a victim during a public

meeting unless the victim is present during the hearing and authorizes such discussion.

4. The Board welcomes all available information on prisoners being considered for parole, favorable and unfavorable. Recommendations for or against parole should be made in writing, so they may be filed in the prisoners folder.

5. The views of Nevada judges, district attorneys, and law enforcement are solicited by the Board, and are duly considered when the decision whether parole is to be granted is made.

6. The victim of any person being considered for parole may submit documents to the Board and may testify at the meeting held to consider the application. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received

by the Board is confidential. The Board may meet with a victim in private immediately prior to a parole hearing to allow for the input of confidential personal information.

7. Any victim who advises the Board in writing of their desire to be notified of specific parole hearings and results, and keeps the Board advised of their current mailing address will be notified pursuant to NRS 213.130.

8. The Board may ask questions of any person in attendance during a parole hearing.

EARLY DISCHARGE FROM PAROLE:

1. The Board, upon recommendation of P&P and in accordance with NRS 176.033(2), may petition the sentencing court for early discharge from parole for those demonstrating exemplary conduct on parole and who have completed the required amount of time served in prison and on parole.

2. Requests for early discharge are initiated by the Chief Parole and Probation Officer or his agent.

NOTIFICATION OF PAROLE APPLICATION HEARINGS:

1. As required by NRS 213.1085, the Board will send notice of pending parole consideration to all Nevada judges, district attorneys, law enforcement agencies and victims of record 30 days in advance of such action.

MANDATORY PAROLE RELEASE:

1. The Board does not determine who is eligible for a mandatory release hearing, but will take the appropriate action based on the eligibility list and other information provided each month by the NDOC.

2. Prisoners with sentences of three or more years, excluding life sentences, may be subject to the mandatory release, which mandates the release of certain prisoners.

3. Prisoners excluded from the law are:
 - a. Prisoners who have consecutive sentences.
 - b. Prisoners who have violated earlier parole on sentences currently being served.
 - c. Prisoners the Board feels will be a danger to the public while on parole.
4. Prisoners who have holds from other jurisdictions may be released to the hold only.
5. In determining whether to release a prisoner on parole pursuant to NRS 213.1099, the Board shall not consider whether the prisoner will soon be eligible for release pursuant NRS 213.1215 (mandatory parole). If the panel determines at a hearing to consider a prisoner pursuant to NRS 213.1099 that the recommended denial length will exceed the projected eligibility for mandatory parole, the panel may conduct a mandatory parole release hearing pursuant to NRS 213.1215.

PAROLE VIOLATION HEARINGS:

1. Violation of any of the rules or special conditions of parole can bring about revocation of parole and re-imprisonment.
2. P&P is responsible for the supervision in the community of all parolees. P&P also files charges of parole violation and places holds on accused violators. They are also responsible for conducting preliminary hearings when necessary.
3. The Board sits as an impartial hearing body at the final violation hearing and determines whether paroles previously granted will be revoked.
4. At the violation hearing the Board makes the final decision to reinstate all or part of the statutory good time which is lost upon revocation.
5. Violation hearings will be held in northern and southern locations in Nevada, depending upon the location of the alleged parole violator.
6. The Board considers only those cases in which the alleged violator and/or his counsel has received a notice of charges, and a copy of allegations and evidence to be used against him.
7. It is the concern of the Board that parolees be allowed adequate time after written notification of the parole violation charge to prepare a defense to present at the preliminary inquiry hearing. Accordingly, the Board prefers that P&P, unless the parolee at any time before or after the applicable time period waives the preliminary inquiry hearing, allow a period of five (5) days, excluding Sundays and holidays after notification of the charges before conducting the preliminary hearing.
 - a. The five day time period shall be computed as follows:

1. Neither the day of notification, nor the day of the preliminary hearing shall be counted.
2. Sundays and state holidays shall be excluded from the three day period allowed for preparation of the defense.
 - b. The Board may, at the request of the parolee, inquire as to the circumstances in the event the parolee has not been afforded five days notice and, thereafter, take whatever action it deems appropriate.
8. The Board shall consider the accused violator's case within 60 calendar days after his return to the custody of NDOC, or placement in residential confinement. If probable cause for continued detention of a paroled prisoner is based on conduct which is the subject of a new criminal charge, the Board may consider the case within 60 days after his return to the custody of the NDOC, or defer consideration until not more than 60 days after his return to the custody of the NDOC following the final adjudication of the new criminal charge.
9. The alleged violator may with good cause, request the violation hearing be continued to the next scheduled hearing if additional time is needed in the preparation of the case. A waiver however, will not be allowed simply for the purpose of delaying the hearing.
10. Since transcripts of parole violation hearings may be subpoenaed for the purpose of impeaching the testimony of the parolee at criminal trials, continuations of violation hearings until pending criminal charges are disposed of may be granted.
11. It is the Board's desire that accused violators are scheduled for a hearing as soon as possible upon their return to the custody of the NDOC.
12. The alleged violator may be represented by a private attorney of choice at his own expense or a public defender.
13. Unless a new conviction is included in the violation charge, an alleged violator has the right to present witnesses on his own behalf at his own expense, who can offer information pertinent to the violation charge. This does not include character witnesses.
14. An alleged violator has the right to confront adverse witnesses, but must indicate he wishes to do so on the notice of charges to allow P&P to schedule the witness to appear. If the parolee has not noted the name of the adverse witness on the notice of charges and indicates his desire to confront the witness at the hearing, if the witness is not in attendance, the Board may continue the hearing to the next day or next scheduled agenda without violating the 60-day rule for a prompt violation hearing.
15. When the violation is based on a new conviction, the accused parole violator may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence on the new charge. The parolee may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

16. The Board, in the presentation of charges in parole violation cases, requires whenever practicable that witnesses against the accused violator or the supervising parole officer do not act as presenters of evidence.

17. Documents, letters, affidavits, or other pertinent information or physical evidence may be presented by either the alleged violator or P&P. Substance of pertinent reports from other agencies may be made available to the alleged violator.

18. The alleged violator must submit to the NDOC, (if in prison custody), and P&P, a list of names and addresses of witnesses he wishes to present on his own behalf. However, as noted earlier, when the violation is based on a new conviction, the alleged violator forgoes the right to present or confront witnesses in re-litigation of the facts of the new conviction.

19. The findings of the Board will be made a matter of record, including a record of the violations for which the violator was held responsible, and the evidence relied upon to reach these findings may be summarized. A copy of the findings will be supplied to the parole violator.

VIOLATION HEARINGS IN ABSENTIA

1. If a parolee is convicted for the commission of a new crime in a foreign jurisdiction and is sentenced to a period of imprisonment, the parolee is not entitled to earn time on the Nevada sentence until completing the sentence imposed in the foreign jurisdiction (if the new offense was committed on or after March 16, 1999).

2. If the parolee waives his right to a personal violation hearing, the Board may take action to revoke or reinstate the parole of the prisoner immediately or at a later date and allow the Nevada sentence to run concurrent to the new conviction, or take no action at all. If the Board chooses to take no action, the parolee will not earn time on the sentence and will be scheduled to appear before the Board for a personal violation hearing within 60 days of his return to the NDOC.

3. P&P will provide the pertinent documents to the parolee and advise him of his rights. Upon receipt of a signed waiver, P&P will schedule a hearing as soon as practical, but should not be more than 60 days from the date of receipt of the signed waiver.

4. Once the Board has determined the appropriate action, P&P will advise the parolee of the Board's decision and provide a copy of the Board's action to the parolee.

5. If the parolee refuses to sign a waiver, he will be scheduled for a personal hearing within 60 days of being returned to the custody of the NDOC.

INSTITUTIONAL PAROLE VIOLATION HEARINGS

1. Prisoners who are serving institutional paroles remain subject to the jurisdiction of the Board.

Major infractions of the Code of Penal Discipline may result in an institutional parole violation hearing.

2. The NDOC will coordinate with P&P to secure the proper documents needed to begin the revocation hearing process and schedule the hearing with the assistance of P&P or the Parole Board's Executive Secretary.

3. The Board operates under the Attorney General's opinion stating that no preliminary inquiry hearing is required when the parole violator is not in custody solely pending revocation hearing proceedings. An offender who has been granted parole to a consecutive sentence is not being deprived of his liberty because of parole violation charges, therefore, no preliminary inquiry hearing is required.

4. The finding of a disciplinary committee has the same result of a judgment of conviction in that the prisoner had the opportunity to confront and cross examine adverse witnesses and testimony at the disciplinary hearing. The prisoner may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence regarding the guilty finding by the disciplinary committee. The prisoner may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

POWER TO SUBPOENA:

1. Under the provisions of NRS 213.1089, the Board is delegated subpoena power by the Nevada Legislature. The Board has established the following rules governing the issuance of subpoenas:

a. The Board will not automatically issue subpoenas upon request by a parolee or his attorney. The law did not intend, nor has it established, automatic right to a subpoena.

b. The parolee or his attorney will be required to establish the need for the presence of the requested witness, and the showing that the witness has refused to appear without a subpoena must be included in the request.

c. To expedite the request, parties seeking subpoenas should include a resume of the tenor of the testimony of the requested witness, and statement as to its relevancy.

d. Service of the subpoena is incumbent upon the parolee or his attorney.

e. Requests for subpoenas must be accompanied by witness fees and travel allowances as set by law.

f. The Board lacks jurisdiction to issue subpoenas to out-of- state residents.

RESTORATION OF STATUTORY GOOD TIME:

1. In consultation with the office of the Attorney General, the Board and the NDOC have agreed

upon a procedure by which prisoners may seek to have statutory good time credits which they lost at parole revocation proceedings restored.

2. Requests must be initiated with the prison caseworkers, after six months of disciplinary free behavior. They will be acted on by the Board only after receiving favorable recommendations from classification committees, wardens and the director of NDOC, or his designee. (Refer NDOC regulations).

3. The Board cannot reinstate statutory good time forfeited by violation of paroles granted under the Mandatory Parole Act, (NRS 213.1215, NRS 213.1519) nor may the Board restore absconder stat or flat time taken at a parole violation hearing pursuant to NRS 213.15185.

ADOPTED AS REVISED THIS 24TH DAY OF OCTOBER, 2003.

SIGNED

DORLA M. SALLING
CHAIRMAN

CONNIE BISBEE
COMMISSIONER

TAMI V. BASS
COMMISSIONER

JOHN C. MORROW
COMMISSIONER

YOLANDA MORALES
COMMISSIONER

TERRY HANEBECK
COMMISSIONER

THOMAS D. GOODSON
COMMISSIONER

ATTEST:

MONICA HOWK
EXECUTIVE SECRETARY

**The following are excerpts from the Nevada Revised Statutes that are cited in the
“*Operation of the Board.*”**

NRS 176.033 Sentence of imprisonment required or permitted by statute: Definite period

for misdemeanor or gross misdemeanor; minimum and maximum term for felony unless definite term required by statute; restitution; modification of sentence.

1. If a sentence of imprisonment is required or permitted by statute, the court shall:

(a) If sentencing a person who has been found guilty of a misdemeanor or a gross misdemeanor, sentence the person to imprisonment for a definite period of time within the maximum limit or the minimum and maximum limits prescribed by the applicable statute, taking due account of the gravity of the particular offense and of the character of the individual defendant.

(b) If sentencing a person who has been found guilty of a felony, sentence the person to a minimum term and a maximum term of imprisonment, unless a definite term of imprisonment is required by statute.

(c) If restitution is appropriate, set an amount of restitution for each victim of the offense and for expenses related to extradition in accordance with NRS 179.225.

2. At any time after a prisoner has been released on parole and has served one-half of the period of his parole, or 10 consecutive years on parole in the case of a prisoner sentenced to life imprisonment, the state board of parole commissioners, upon the recommendation of the division, may petition the court of original jurisdiction requesting a modification of sentence. The board shall give notice of the petition and hearing thereon to the attorney general or district attorney who had jurisdiction in the original proceedings. Upon hearing the recommendation of the state board of parole commissioners and good cause appearing, the court may modify the original sentence by reducing the maximum term of imprisonment but shall not make the term less than the minimum term prescribed by the applicable penal statute.

NRS 213.1075 Information obtained by parole and probation officers and employees privileged; nondisclosure. Except as otherwise provided by specific statute, all information obtained in the discharge of official duty by a parole and probation officer or employee of the board is privileged and may not be disclosed directly or indirectly to anyone other than the board, the judge, district attorney or others entitled to receive such information, unless otherwise ordered by the board or judge or necessary to perform the duties of the division.

NRS 213.1085 Executive secretary: Appointment; unclassified service; qualifications; duties.

1. The board shall appoint an executive secretary, who is in the unclassified service of the state.

2. The executive secretary must be selected on the basis of his training, experience, capacity and interest in correctional services.

3. The board shall supervise the activities of the executive secretary.

4. The executive secretary is the secretary of the board and shall perform such duties in connection therewith as the board may require, including, but not limited to, preparing the agenda for board meetings and answering correspondence from prisoners in the state prison.

5. The executive secretary shall prepare a list at least 30 days before any scheduled action by the board showing each person then eligible for parole indicating:

- (a) The name of the prisoner;
- (b) The crime for which he was convicted;
- (c) The county in which he was sentenced;
- (d) The date of the sentence;
- (e) The length of the sentence, including the minimum term and maximum term of imprisonment or the definite term of imprisonment, if one is imposed;
- (f) The amount of time actually served in the state prison;
- (g) The amount of credit for time previously served in a county jail; and
- (h) The amount of credit allowed to reduce his sentence pursuant to chapter 209 of NRS.

The executive secretary shall send copies to all law enforcement agencies in this state and to other persons whom he deems appropriate, at least 30 days before any scheduled action by the board. Each law enforcement agency that receives the list shall make the list available for public inspection during normal business hours.

NRS 213.10885 Board to adopt standards for granting or revocation of parole; sample form regarding probability of success on parole to be made available to public; review of effectiveness of standards; report to legislature.

1. The board shall adopt by regulation specific standards for each type of convicted person to assist the board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

- (a) Who committed a capital offense.
- (b) Who was sentenced to serve a term of imprisonment for life.
- (c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.
- (d) Who was convicted as a habitual criminal.
- (e) Who is a repeat offender.
- (f) Who was convicted of any other type of offense.

The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which

are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the board considers must include, but are not limited to:

- (a) The severity of the crime committed;
- (b) The criminal history of the person;
- (c) Any disciplinary action taken against the person while incarcerated;
- (d) Any previous parole violations or failures;
- (e) Any potential threat to society or himself; and
- (f) The length of his incarceration.

3. The standards adopted by the board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

4. The board shall make available to the public a sample of the form the board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

5. On or before January 1 of each even-numbered year, the board shall review comprehensively the standards adopted by the board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

6. The board shall report to each regular session of the legislature:

- (a) The number and percentage of the board's decisions that conflicted with the standards;
- (b) The results and conclusions from the board's review pursuant to subsection 5; and
- (c) Any changes in the board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

NRS 213.1089 Subpoenas.

1. For the purposes of NRS 213.107 to 213.157, inclusive:

- (a) The chairman of the board; and
- (b) The inquiring officer conducting an inquiry pursuant to NRS 213.1511,

may issue subpoenas to compel the attendance of witnesses and the production of books and

papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the chairman of the board or inquiring officer may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the chairman of the board or inquiring officer pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the board or at the inquiry which is named in the subpoena, or has refused to answer questions propounded to him, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued, the court shall enter an order that the witness appear before the board or at the inquiry at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness must be dealt with as for contempt of court.

NRS 213.1099 Limitations on board's power to release prisoners on parole.

1. Except as otherwise provided in this section and NRS 213.1214 and 213.1215, the board may release on parole a prisoner who is otherwise eligible for parole pursuant to NRS 213.107 to 213.157, inclusive.

2. In determining whether to release a prisoner on parole, the board shall consider:

(a) Whether there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws;

(b) Whether the release is incompatible with the welfare of society;

(c) The seriousness of the offense and the history of criminal conduct of the prisoner;

(d) The standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the chief; and

(e) Any documents or testimony submitted by a victim notified pursuant to NRS 213.130.

3. When a person is convicted of a felony and is punished by a sentence of imprisonment, he

remains subject to the jurisdiction of the board from the time he is released on parole under the provisions of this chapter until the expiration of the maximum term of imprisonment imposed by the court less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

4. Except as otherwise provided in NRS 213.1215, the board may not release on parole a prisoner whose sentence to death or to life without possibility of parole has been commuted to a lesser penalty unless it finds that the prisoner has served at least 20 consecutive years in the state prison, is not under an order to be detained to answer for a crime or violation of parole or probation in another jurisdiction, and that he does not have a history of:

(a) Recent misconduct in the institution, and that he has been recommended for parole by the director of the department of corrections;

(b) Repetitive criminal conduct;

(c) Criminal conduct related to the use of alcohol or drugs;

(d) Repetitive sexual deviance, violence or aggression; or

(e) Failure in parole, probation, work release or similar programs.

5. In determining whether to release a prisoner on parole pursuant to this section, the board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS 213.1215.

6. The board shall not release on parole an offender convicted of an offense listed in NRS 179D.410 until the law enforcement agency in whose jurisdiction the offender will be released on parole has been provided an opportunity to give the notice required by the attorney general pursuant to NRS 179D.600 to 179D.800, inclusive.

NRS 213.1214 Prisoners required to be certified by panel before release on parole; recertification required if prisoner returns to custody; revocation of certification; immunity.

1. The board shall not release on parole a prisoner convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The administrator of the division of mental health and developmental services of the department of human resources or his designee;

(b) The director of the department of corrections or his designee; and

(c) A psychologist licensed to practice in this state or a psychiatrist licensed to practice medicine in this state,

certifies that the prisoner was under observation while confined in an institution of the department of corrections and does not represent a high risk to reoffend based upon a currently accepted standard of assessment.

2. A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the department of corrections may not be paroled unless a panel recertifies him

in the manner set forth in subsection 1.

3. The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.

4. This section does not create a right in any prisoner to be certified or to continue to be certified. No prisoner may bring a cause of action against the state, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the state or its political subdivisions for not certifying a prisoner pursuant to this section or for refusing to place a prisoner before a panel for certification pursuant to this section.

5. The provisions of this section apply to a prisoner convicted of any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(d) Abuse or neglect of a child pursuant to NRS 200.508.

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(f) Incest pursuant to NRS 201.180.

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(h) Open or gross lewdness pursuant to NRS 201.210.

(i) Indecent or obscene exposure pursuant to NRS 201.220.

(j) Lewdness with a child pursuant to NRS 201.230.

(k) Sexual penetration of a dead human body pursuant to NRS 201.450.

(l) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

(m) An attempt to commit an offense listed in paragraphs (a) to (m), inclusive.

(n) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

NRS 213.1215 Mandatory release of certain prisoners.

1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the division, in accordance with the plan for supervision developed by the chief pursuant to NRS 213.122.

3. If the board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1.

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

NRS 213.130 Department of corrections to determine eligibility for parole and provide data to board; use of photographs related to offense when considering parole; meetings to consider prisoner for parole; notice to victim.

1. The department of corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the state board of parole commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the board data that will assist the board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken

pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, “photograph” includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the board. All meetings must be open to the public.

4. Not later than 5 days after the date on which the board fixes the date of the meeting to consider a prisoner for parole, the board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim’s current address is otherwise known by the board. The victim of a prisoner being considered for parole may submit documents to the board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the board, the board must not be held responsible if such notification is not received by the victim.

5. The board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The board of state prison commissioners shall provide suitable and convenient rooms or space for use of the board.

7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the board pursuant to this section is confidential.

9. For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

NRS 213.133 Delegation of board’s authority to hear and act upon parole of prisoner and issued before board.

1. Except as otherwise provided in subsections 6 and 7, the board may delegate its authority to hear, consider and act upon the parole of a prisoner and on any issue before the board to a panel consisting of:

(a) Two or more members of the board, two of whom constitute a quorum; or

(b) One member of the board who is assisted by a case hearing representative.

2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the board. Such action may be taken at a meeting of the board, or without a meeting by the delivery of written approval to the secretary of the board.

4. The degree of complexity of issues presented must be taken into account before the board makes any delegation of its authority and before it determines the extent of a delegation.
5. The board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.
6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:
 - (a) Who committed a capital offense;
 - (b) Who is serving a sentence of imprisonment for life;
 - (c) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;
 - (d) Who is a habitual criminal; or
 - (e) Whose sentence has been commuted by the state board of pardons commissioners,must be conducted by at least three members of the board, and action may be taken only with the concurrence of at least four members.
7. If a recommendation made by a panel deviates from the standards adopted by the board pursuant to NRS 213.10885 or the recommendation of the division, the chairman must concur in the recommendation.

NRS 213.15185 When paroled prisoner deemed escaped prisoner; loss of credits; service of unexpired term of imprisonment.

1. A prisoner who is paroled and leaves the state without permission from the board or who does not keep the board informed as to his location as required by the conditions of his parole shall be deemed an escaped prisoner and arrested as such.
2. Except as otherwise provided in subsection 2 of NRS 213.1519, if his parole is lawfully revoked and he is thereafter returned to prison, he forfeits all previously earned credits earned to reduce his sentence pursuant to chapter 209 of NRS and shall serve any part of the unexpired maximum term of his original sentence as may be determined by the board.
3. Except as otherwise provided in subsection 2 of NRS 213.1519, the board may restore any credits forfeited pursuant to subsection 2.
4. Except as otherwise provided in NRS 213.15187, the time a person is an escaped prisoner is not time served on his term of imprisonment.

NRS 213.1519 Effect of parole revocation; dishonorable discharge from parole.

1. Except as otherwise provided in subsection 2, a parolee whose parole is revoked by decision of the board for a violation of any rule or regulation governing his conduct:

(a) Forfeits all credits previously earned to reduce his sentence pursuant to chapter 209 of NRS; and

(b) Must serve such part of the unexpired maximum term of his original sentence as may be determined by the board. The board may restore any credits forfeited under this subsection.

2. A parolee released on parole pursuant to NRS 213.1215 whose parole is revoked for a violation of any rule or regulation governing his conduct:

(a) Forfeits all credits previously earned to reduce his sentence pursuant to chapter 209 of NRS;

(b) Must serve the entire unexpired maximum term of his original sentence; and

(c) May not again be released on parole during his term of imprisonment.

3. If a person, after his release on parole, is convicted in another jurisdiction of a crime and sentenced to imprisonment for a term of more than 1 year, he may be given a dishonorable discharge from parole.